



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

WMP

Docket No: 2178-02
19 August 2002



This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 14 August 2002. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 3 August 1976 at age 17. Your record reflects that you served without incident until 15 July 1977, when you received nonjudicial punishment (NJP) for a period of unauthorized absence from 13 June to 28 June 1977, a period of 15 days; and missing ship's movement. The punishment imposed was a forfeiture of \$100 and 14 days of restriction and extra duty. Additionally, you received a reduction to paygrade E-1, however, this punishment was suspended for six months.

On 14 November 1978, you were convicted by special court-martial for a period of unauthorized absence from 30 April to 7 October 1978, a period of 160 days. The punishment imposed was confinement at hard labor for two months, a forfeiture of \$250 per month for two months, and a reduction to paygrade E-1. The

convening authority approved the sentence as adjudged and ordered the execution.

On 22 March 1979 your commanding officer recommended approval of your request for a hardship discharge. However, the Chief of Naval Personnel (CNP) denied your request due to the fact that the documentation provided did not indicate that your presence was mandatory and that other family members were available to provide assistance.

On 4 May 1979, you were placed in the voluntary self-referral for drug abuse rehabilitation (VSRRP) program. This program enabled drug dependent personnel to obtain treatment while on active duty without the risk of receiving disciplinary action for their prior actions.

On 8 May 1979 you received a psychiatric evaluation concerning your alcohol abuse in which the attending physician found that you were an alcohol abuser, were not motivated for treatment, and recommended discharge from the naval service.

On 10 May 1979 you received NJP for a period of unauthorized absence on 3 May 1979. The punishment imposed was confinement for three days on bread and water and reduction to paygrade E-1. Also on 10 May 1979, you were counseled concerning your past performance and warned that a continuation of this behavior would result in an administrative discharge.

On 14 May 1979 you signed an administrative remarks (NAVPERS 1070/613) entry stating that you no longer desired drug rehabilitation and desired to be separated from the naval service by reason of misconduct.

On 15 May 1979 administrative separation action was initiated by reason of misconduct. Although the documents notifying you of the separation action are not available, it appears that you were made aware of this separation action and waived your procedural rights.

On 15 May 1979 the commanding officer forwarded the separation action, recommending a general discharge, to CNP. On 30 July 1979 CNP directed your retention on active duty because you had not violated the counseling and warning of 10 May 1979.

On 19 February 1980, you were convicted by summary court-martial of an unauthorized absence from 25 January to 29 January 1980, a period of four days; failure to go to appointed place of duty; missing ship's movement; and failure to obey a lawful order. The punishment imposed was confinement at hard labor for 27 days, a forfeiture of \$380, and reduction to paygrade E-2. The convening authority approved the sentence as adjudged and ordered its execution.

On 2 May 1980, you were again convicted by summary court-martial of an unauthorized absence from 17 March to 25 March 1980, a period of eight days; and breaking restriction. The punishment imposed was confinement at hard labor for 30 days, a forfeiture of \$299, and reduction to paygrade E-1. The convening authority approved the sentence as adjudged and ordered its execution.

On 2 May 1980, you were notified that separation action was being initiated by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. At this time, you were advised of all procedural rights, consulted with counsel, and elected to present your case to an administrative discharge board (ADB).

On 24 June 1980, an ADB considered your case, found that you had committed misconduct due to frequent involvement of discreditable nature with military authorities, and recommended an other than honorable discharge. Accordingly, on 28 June 1980, your commanding officer forwarded the separation action to CNP, recommending an other than honorable discharge.

On 30 July 1980, you received NJP for a period of unspecified period of unauthorized absence. The punishment imposed was a forfeiture of \$100.

On 19 August 1980 CNP directed an other than honorable discharge and on 27 August 1980 you were so discharged.

On 25 January 1985, the Naval Discharge Review Board (NDRB) considered your case and concluded that there was no reason to excuse the misconduct of record, which substantiated the character of service as under other than honorable conditions.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, and your family problems. However, the Board concluded that the record fully supported processing for separation due to misconduct due to frequent involvement of discreditable nature with military authorities due to your three NJP's, two summary courts-martial and one special court-martial; and over 215 days of unauthorized absence. Also, the Board noted that you were, in essence, given a second chance in July 1979, when CNMPC disapproved the commanding officer's request for your discharge. However, instead of taking advantage of this opportunity, you continued your pattern of unauthorized absences until your discharge. Therefore, the Board concluded that your discharge under other than honorable conditions was appropriate. Additionally, a documented family problem or hardship does not relieve an individual of responsibility for his actions and is insufficient to mitigate your record of extensive unauthorized absences and persistent misconduct. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director